

Alameda County Congestion Management Agency

**Project Delivery
Administration Guide**

Date: February 2007

Project Delivery Administration Guide

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General

The Project Delivery Administration Guide is based upon the Project Delivery Policies and Programs approved by the Board and provides guidelines to Alameda County Congestion Management Agency (CMA) staff in delivery of capital projects.

1.1 Purpose

This Project Delivery Administration Guide documents the policies and procedures of the CMA for publicly advertising, awarding, administering and closing out construction contracts, which the CMA administers.

1.2 Overview of Roles

For most or all of its projects, the CMA may retain the services of qualified professional design, construction management and surveying consultants to assist the CMA in executing construction projects. The following summarizes the roles of the various participants in the administration of CMA construction projects:

- The CMA Board establishes and maintains policies and programs supporting the development of capital projects in cooperation with local, state and federal agencies.
- The Executive Director, or designee, is responsible for executing all funding agreements and contracts and is the representative of the CMA staff to the CMA Board. The Executive Director, or his/her designee, will review and, if appropriate, approve all additions, deletions and modifications to the Project Delivery Administration Guide.
- The Agency Engineer signs plans for conformance with project requirements and design exceptions, certifies the utilities and right-of-way, and approves, contract change orders (CCOs) and other documents, which require, or recommend, the signature of a CMA representative with a California Professional Civil Engineering license. The Executive Director designates, in writing, the CMA representative with California Professional Civil Engineer license as the Agency Engineer as well as any authorized delegees. The Agency Engineer will oversee the preparation of all modifications to the Project Delivery Administration Guide and recommend for approval by the Executive Director.
- The CMA Project Manager is the CMA staff person responsible for the delivery of a specific CMA capital project or phase of a capital project and will utilize this Construction Contract Administration Guide to perform the construction administration.
- The CMA Contract Administrator is the CMA staff person who performs public contract administration activities including solicitation of administration, professional and construction contractor services, assists in negotiating contracts and contract language, oversees and manages invoices, and monitors contract compliance.
- The Design Consultant for a particular CMA capital project is responsible for the delivery of a biddable and buildable project, preparation of the bid documents, including project plans and specifications, estimate (PS&E) and reports directly to the CMA Project Manager.
- The CMA's Legal Counsel is responsible for the legal review of processes, procedures, specific issues and others associated with the construction administration of CMA projects.

- The Consultant Construction Management Team (CM Team) for a particular CMA capital project, including a designated Resident Engineer (RE), will be contracted to assist the CMA Project Manager to administer the construction of a specific project (see Section 6 – Procurement and Contract Procedures for process for contracting a CM Team).
- The Consultant Construction Project Manager (Construction PM) for a particular CMA capital project will be provided by the CM Team to oversee and be functionally responsible for the advertisement and award of the construction contract of the selected project and act as liaison between the CM Team and the CMA staff during these periods. The Construction PM may be the designated RE or a more senior member of the CM Team, if necessary. The Construction PM must be approved by the Agency Engineer. The Construction PM and the CM Team will be responsible for ensuring that the procedures are followed as outlined herein.

The specific responsibilities for the various roles in construction contract administration are further noted herein.

1.3 Governing Documents

The advertisement, award, administration and closeout of construction contracts shall be performed in accordance with the applicable provisions of the following documents:

- State of California, Public Contract Code
- Local and/or Regulatory Agency Permit Requirements
- Project Special Provisions & Project Plans (PSP & PP)
- Alameda County Congestion Management Agency Project Delivery Administration Guide
- State of California, Department of Transportation, Local Assistance Procedures Manual (LAPM)
- State of California, Department of Transportation, Standard Specifications & Plans (SS & SP)
- State of California, Department of Transportation, Traffic Manual
- State of California, Department of Transportation, Manual of Uniform Traffic Control Devices (MUTCD)
- State of California, Department of Transportation, Construction Manual
- State of California, Department of Transportation, Guide to Project Delivery Work Plan Standards, Office of Statewide Project Management Improvements

In case of conflict within or between documents, CMA staff shall consult with CMA Legal Counsel to determine the applicable provision. The Agency Engineer will make the final determination of the controlling document.

2. Contract Advertisement

The Construction PM and the CM Team shall adhere to the applicable rules and regulations listed in Chapter 15, "Advertise and Award Project," of the Caltrans LAPM including the following:

2.1 Bidding Document Preparation

The Design consultant will prepare the bid documents, including project plans and specifications and the CMA Project Manager is responsible for the administration of the design consultant's contract. The need for a Constructability, Bidability and Safety Reviews of the bid documents will be considered by the CMA Project Manager on a project by project basis.

As part of the preparation of the bidding documents, the Design Consultant, in coordination with the Construction PM, shall incorporate the CMA's Construction Contract boilerplate and the appropriate federal provisions from the Caltrans Division of Local Assistance's "Sample Boiler Plate Contract Documents." Depending upon the funding sources for the construction of the project, the appropriate Disadvantaged Business Enterprise (DBE) provisions should be used in the contract documents. In general, projects utilizing Federal funds will require DBE provisions to be included in the Contract Specifications. All contracts should reference CMA's Small Business Enterprise (SBE)/Local Business Enterprise (LBE) policies. In addition, funding agencies may have local or small local provisions which must be incorporated in the contract documents.

The CMA Contract Administrator shall confer with the Construction PM to determine how many sets of bidding documents will be needed to advertise the project and the price for each set.

2.1.1 Contractor Outreach

Depending on the complexity and schedule of the project, general economic conditions, or other factors which the CMA may consider as potential impacts to the competitive bidding process or to the number of potential bidders, the CMA Agency Engineer, in consultation with the CMA Project Manager, may elect to conduct a contractor outreach session. The purpose of the outreach session is to encourage a wider range of participation in the contract bidding process, with the goal of keeping project costs to a minimum. The CMA DBE, SBE and LBE Business Outreach and Marketing Program will be used as a guideline for this outreach.

The contractor outreach session will be focused on the construction community. The CMA Contract Administrator will coordinate the process for notifying the construction community of the event and perform the overall coordination of the outreach session. The CMA Project Manager, Design Consultant, Construction PM and CMA Contract Administrator may participate in the outreach session, including a project overview and discussion of bidding issues.

2.2 Contract Advertisement and Bidding

The Construction PM shall prepare a Draft Staff Report for the CMA Project Manager recommending the CMA Board authorize: (1) the Executive Director, or designee, to publicly advertise the contract at their discretion, and (2) the Agency Engineer to approve changes and issue addenda to the bidding documents during the advertising period. The Draft Staff Report will discuss the status of the project budget. A sample Draft Staff Report is included in Appendix A.

When the Design Consultant and the Construction PM are satisfied that the bidding documents are complete, they shall advise the Agency Engineer, who, if he concurs, will recommend to the

Executive Director that the contract(s) be advertised. When the Executive Director authorizes the advertisement, the Construction PM shall draft a Notice to Contractors – Bid Notice (NTC – BN) for the CMA Contract Administrator, who review for consistency and will publish the NTC-BN in the appropriate publications. A Notice to Contractor (NTC) will also be prepared and sent to the list of contractors that have registered with the CMA. The NTC may include the time, date and location of a Pre-Bid Conference (see 2.2.2). Samples of the NTC-BN and NTC are shown in Appendix A. The advertisement period officially starts on the first date of such publication. The NTC may also be posted on the CMA's website along with reference materials, if any.

All involved shall adhere to the applicable rules and regulations as listed in Chapter 15, "Advertise and Award Project," of the Caltrans LAPM related to advertisement of the construction contract.

2.2.1 Bidding Document Distribution

The NTC shall include instructions to prospective bidders for purchasing the bid documents from the CMA.

The Construction PM shall confirm/update a list of builder's exchanges and plan rooms for review and approval by the CMA Contract Administrator. The CMA Contract Administrator shall issue sets of the bid documents to builder's exchanges and plan rooms at no cost. NTCs will accompany the bid document to the builder's exchanges and plan rooms.

In addition, one complete set of bid documents will be made available to the public during normal business hours at the location(s) stated in the NTC – BN and NTC.

The CMA Contract Administrator, in coordination with the CPM, shall maintain a current listing of all plan holders of record, i.e., those who have been issued or have purchased one or more sets of the bidding documents. If bid documents are issued through local print services, the CMA Contract Administrator will coordinate with the print service to record the contact information of all purchasers of the bid documents.

2.2.2 Pre-Bid Conference

The Agency Engineer, in consultation with the CMA Contract Administrator, the CMA PM and the Construction PM, may elect to conduct a Pre-bid Conference. The Pre-Bid conference should be held early within the bid period, but should not be held any later than ten working days prior to the bid submittal date. The CMA Contract Administrator, in association with the CMA Project Manager, will be responsible for coordinating the Pre-Bid Conference. The Agency Engineer, CMA Project Manager, CMA Contract Administrator, Construction PM, Design Consultant and the CMA Affirmative Action Consultant should be in attendance and may have active roles in the Pre-Bid Conference. A copy of a sample Pre-Bid Meeting Agenda is shown in Appendix A.

All prospective bidders will be encouraged to attend the Pre-Bid Conference. The purpose of the conference is to allow the CMA to direct the attention of prospective bidders to any critical aspects of the project, to allow those prospective bidders to ask questions of the CMA staff and consultants and to gauge contractor interest in the project. Low attendance at the Pre-Bid Conference may require additional outreach efforts by CMA staff and/or the Construction PM. The Pre-Bid Conference may include a tour of the project site. The CMA Contract Administrator, in coordination with the Construction PM, will ensure minutes of the Pre-Bid Conference are prepared and the minutes and the meeting sign-in sheet are sent to all attendees and all plan holders of record and may be posted on the CMA website.

2.2.3 Bid Inquires

The CMA Contract Administrator will be the single point of contact for bid inquiries throughout the advertising period. The NTC will include specific instructions for submitting bid inquiries. Bid inquiries will be accepted no later than eight working days prior to the bid submittal date.

The CMA Contract Administrator will provide the bid inquiries to the Construction PM, who will work with the Design Consultant to develop a response to the bid inquiry for the CMA Project Manager. The CMA Project Manager will approve the response to the bid inquiry, and provide the approved response to the CMA Contract Administrator for distribution. The CMA Contract Administrator, in consultation with the Construction PM, will ensure that all bid inquiries and responses are recorded and transmitted to all plan holders of record not less than three days before the bid due date. The intent of this requirement is to provide the bidders sufficient time to respond and/or address the bid inquiry or to postpone the bid submittal, if necessary.

2.2.4 Addenda

If during the advertisement period matters arise that are deemed to require clarifications of the bidding documents, the Construction PM, with appropriate assistance from the Design Consultant, will prepare an addendum for the CMA Project Manager review. Once the CMA PM has reviewed and is satisfied with the addenda, it will be transmitted to the Agency Engineer for approval and signature. Once approved, the Agency Engineer will provide to the CMA Contract Administrator who will issue the approved addenda to all plan holders of record and may post on the CMA website. Addenda should be issued not less than two days prior to the bid submittal date. A sample addendum notice is attached in Appendix A.

2.2.5 Bid Submittal and Receipt

The NTC will instruct bidders to submit their sealed bids to the CMA Contract Administrator at the CMA Offices during normal business hours and prior to the time specified. The CMA will not accept bids after the specified time. The CMA Contract Administrator will be responsible for safeguarding all accepted bids. As bids are received they shall be logged in and stamped with the time and date. The bids shall be retained in a secure place until the designated time and place for public bid opening. Negotiation with contractors during the period following the opening of bids and before the award of contract, shall not be permitted.

2.3 Bid Opening

The Agency Engineer will oversee the public opening of all bids at the time and location stated in the NTC. Changes, if any, to the originally specified bid opening time or location will only be made by addendum. All bids received in accordance with the terms of the advertisement shall be publicly opened and announced by total amount. If any bid received is not read aloud, the name of the bidder and the reason for not reading the bid aloud shall be publicly announced at the bid opening. The Agency Engineer shall adhere to the rules and regulations as listed in Chapter 15, "Advertise and Award Project," of the Caltrans LAPM related to bid opening of the construction contract bids. A bid summary will be prepared by the CMA Contract Administrator. A sample bid summary is shown in Appendix A.

2.4 Bid Analysis

Following the bid opening, the Construction PM will check on the status of the low bidder's Contractor's license and ensure the bids are analyzed for irregularities, e.g., errors, discrepancies

and reasonableness, as well as conformance to CMA's SBE and LBE policies, as well as other funding agency's policies included in the bid documents. During the bid analysis period, if the Contractor's license is expired, revoked, or suspended, the Construction PM will inform the CMA Project Manager and the Agency Engineer and will cause a rejection of the bid.

If any bid contains irregularities, which in the Construction PM's opinion, could affect the determination of the lowest responsible and responsive bidder, the Construction PM will notify the CMA Project Manager and the Agency Engineer who will refer the facts to the CMA's Legal Counsel. The CMA's Legal Counsel will make a recommendation to the Agency Engineer, who will make the final determination.

2.5 Notice of Intent to Award

Following the Contractor investigation and bid analysis, the Construction PM will prepare a "Notice of Intent to Award" letter to all bidders for the Agency Engineer's signature. This letter formally notifies all bidders of the CMA's intention to award the construction contract to the apparent responsible and responsive low bidder, and marks the beginning of the Bid Protest period. This notice must be provided to all bidders in accordance with the timelines required by the Bid Protest Procedure included in Appendix A and sufficiently in advance of the target award date. A sample Notice of Intent to Award is provided in Appendix A.

2.6 Bid Rejection

Upon completion of the bid analysis, the Agency Engineer may recommend that rejection of all bids. This may occur, for instance, if the bids all greatly exceed the Engineer's Estimate and/or there is only one bid. The Agency Engineer, in consultation with the CMA's Legal Counsel, may determine that rejection of any or all bids is in the CMA's best interest. The Agency Engineer will advise the Executive Director of the staff recommendation and, with the assistance of the CMA Project Manager and the Construction PM, will prepare a staff report for CMA Board action. This action may be taken concurrently with award of the contract.

2.7 Bid Protests

Any bidder may submit a valid Bid Protest at any time after the bid opening and prior to the deadline as stated in the CMA's Bid Protest Policy. Valid Bid Protests will be processed in accordance with this policy.

3 Contract Award and Execution

Unless prior approval has been granted by the Agency Engineer to supersede the provisions of this Section 3 in the public interest, the Construction PM shall adhere to the applicable Caltrans' rules and regulations listed in Chapter 15, "Advertise and Award Project," of the Caltrans LAPM including the following:

3.1 Contract Award

Following the Contractor investigation and bid analysis and resolution of any Bid Protests or irregularities, the Construction PM will prepare a Draft Staff Report for the CMA PM's review, and for final review and approval by the Agency Engineer, recommending that the CMA Board approve the award of the contract to the lowest responsible, responsive bidder. The Draft Staff Report will state the contract amount and will authorize the Executive Director to execute the contract. The Draft Staff Report also will recommend authorizing the Executive Director to prepare and sign any other documents necessary to execute the contract and discuss the status of

the project budget. A draft Staff Report is shown in Appendix A. In some cases, the CMA Board may have authorized the Executive Director to perform these functions prior to bid opening; in such instances, the Draft Staff Report may not be required.

Under certain circumstances, the Board may be requested to approve the award of the contract upon resolution of a bid protest. In that case, the date of the resolution of the bid protest by the Agency Engineer becomes the date of award.

Staff's goal is to analyze the bids and resolve all irregularities and protests approximately three weeks prior to a regularly scheduled CMA Board meeting. The award of the contract will be placed on the agenda of the Administration and Legislation (A&L) Committee of the CMA and, provided the A&L Committee recommends award, the matter will be placed on the agenda of the upcoming CMA Board meeting. However, in the event that the bid analysis and resolution of irregularities can not be concluded prior to the A&L Committee meeting, staff would bring the contract award item directly to the CMA Board, or if previously authorized, to the Executive Director.

3.2 Contract Execution

Once the Board has awarded the contract, the CMA Contract Administrator, in coordination with the Construction PM, will prepare a Notice of Award letter to the selected contractor for the Agency Engineer's signature. This letter will include instructions for the contractor to submit required information, including proof of insurance and all bond documents to the CMA within a specified time frame to facilitate the execution of the construction contract. A sample of the Notice of Award is included in Appendix A.

The CMA Contract Administrator, the Construction PM and CMA's Legal Counsel will review all documents submitted by the contractor. The CMA Legal Counsel may modify the insurance or bond requirements, if requested by the contractor and approved by the Agency Engineer, during the final contract negotiation process. When all requirements have been satisfied, the Legal Counsel will approve the contract as to form, and the CMA Contract Administrator will send the contract to the Executive Director for signature. Once the contract is signed, the CMA Contract Administrator will distribute the fully executed originals and copies of the contract.

The CMA Contract Administrator is responsible for ensuring all bid securities are returned to the bidders at the appropriate time.

3.3 Update Quality Assurance Program

The Construction PM will utilize the CMA's Quality Assurance Program, if applicable, as a guide to develop a project specific Quality Assurance Plan. Once the Construction PM has prepared the project specific Quality Assurance Plan, the Agency Engineer will review and approve.

4 Post Award

Post award is defined as the tasks to be performed after the award and before the beginning of construction.

4.1 General

Once the construction contract has been awarded, the CM Team has the primary responsibility for administering the construction contract, which includes providing a Resident Engineer (RE), office engineering, construction surveying and field inspection services staff, as necessary. The

RE will be responsible for setting up the field office files and filing system and will be the focal point of all communications.

The CM Team will monitor and verify that all insurance, bonds, and other materials required of the contractor are submitted in a timely manner and are kept current and will be responsible for monitoring the Contractor's labor compliance practices. The CM Team will communicate the status of the above to the CMA Contract Administrator.

After the contract award and throughout the remainder of the construction phase, the CM Team will be the CMA's primary interface with the Contractor. All routine communications with the Contractor will be through the CM Team. The CM Team will coordinate with the surveyors, materials testing team, and with other stakeholders and project participants, as necessary. The CM Team will also perform a Pre-Construction Survey of the project site to confirm site conditions. The CM Team shall follow Caltrans' rules and regulations listed in Chapter 16, "Administer Construction Contracts," of the Caltrans LAPM, as applicable, and/or other local jurisdiction requirements, if appropriate.

4.2 Pre-Construction Conference

Once the contract has been officially executed, the Agency Engineer, in coordination with the CMA PM and the CMA Contract Administrator, will authorize the RE to issue a Notice of Pre-Construction Conference to the Contractor. The Notice of Pre-Construction Conference may be included in the Notice of Award. A sample of the Notice of Pre-Construction Conference to the Contractor is included in Appendix A.

A Pre-Construction Conference will be held with the Agency Engineer, CMA PM, Design Consultant, CM team, Contractor and key subcontractors and relevant agencies (e.g., utilities). At this conference, the RE will lead the discussion of topics which may include project requirements, concerns, coordination, reporting requirements, submittal/processing requirements, permit requirements, hazardous materials handling requirements and protocol, if necessary, provisions of the safety plan, coordination with other contractors in the project area such as for utility relocation, records management, labor compliance, Quality Assurance Program and schedule. A sample agenda for the Pre-Construction Conference is shown in Appendix A. Also, the RE will advise the contractor when the Notice to Proceed (NTP) is expected to be issued. The RE will prepare and distribute the minutes of the meeting within one week of the Pre-Construction Meeting.

4.3 Notice to Proceed

The CMA Contract Administrator, in concurrence from the Agency Engineer and the CMA Project Manager, will authorize the RE will issue the Notice To Proceed (NTP) to the Contractor. The NTP will establish the start date for construction and the projected completion date based on the number of allowable days stated in the contract (the basis to calculate liquidated damage penalties). A sample NTP is provided in Appendix A. The contractor is expected to start work within the timeframe specified in the contract.

4.4 Preliminary Notices, Stop Notices and Liens

Section to be completed.

5 Construction Phase

The CM Team shall adhere to Caltrans' rules and regulations listed in Chapter 16, "Administer Construction Contracts," of the Caltrans LAPM, as applicable, including the following:

5.1 General

During the construction phase, the CMA's responsibilities under the construction contract will be administered and/or monitored primarily by the CM Team.

5.2 Construction Progress Meetings

The CM Team will conduct regular Construction Progress Meetings with the Contractor, the CMA Project Manager and affected agency/jurisdiction stakeholders, as appropriate. Other members of the project team will be included on an "as needed" basis. The objective of these meetings is to keep the project on track by reviewing the schedule, coordinating upcoming work and resolving issues as quickly and economically as possible.

5.3 Progress Payments and Reporting

The contractor may send an estimate of quantities to be considered for the progress payment. Each month, the Resident Engineer will prepare and submit a construction progress payment request to the CMA Project Manager in the format shown in Appendix A. The CMA Project Manager will review the payment request package, prepare a reimbursement request and then forward the payment request package to the Agency Engineer for approval of payment of the undisputed amount due the Contractor. Once approved, the Agency Engineer will forward package to the CMA Accounting Department for processing. The reimbursement request will be paid within 5 working days or as designated in the specifications.

In areas of payment disputes, the process outlined in the contract and specifications will be followed.

The CM Team will be responsible for providing the Agency Engineer and the CMA Project Manager with monthly status report and log of the status of approved, submitted and anticipated CCOs. The CM Team will also provide the CMA Project Manager with a cashflow projection through the completion of the project on a quarterly basis.

5.4 Public Outreach

When deemed appropriate by the Agency Engineer, part of the CM Team contract will include providing a public outreach program which may include, but not be exclusive to, the establishment and monitoring of a hotline, flyer mailouts notifying nearby residences and businesses of major changes in traffic flow, detours, lane closures, night work and overall status of the project, press releases to describe the general progress of work, and community meetings to address specific construction impacts and concerns. Each project will require public outreach tailored to the project's scope, location and impact on the community.

5.5 Notification of CMA of Extraordinary Circumstances

In the event of a significant safety event, such as an unforeseen utility issue, private property encroachment and other issues of public safety or concern, the CM Team will notify the Agency Engineer immediately of the incident and will FAX any incident reports to the Agency Engineer, as soon as they are available. The CM Team will keep the Agency Engineer apprised of the progress of resolution, as appropriate. Verbal notification is acceptable, but must be followed

with formal written communications and documentation. A sample form is shown in Appendix A.

If the media becomes involved, all dealings with the media will in accordance with CMA procedures for dealing with all matters with the media.

5.6 Contract Change Orders

The CMA Project Manager is responsible for allocating the contingency for the construction contract and ensuring that it is within the overall project contingency.

CCOs will be negotiated in compliance with the contract and the specifications. A basis for the CCO, ordinarily contained in CCO Memorandum, will be prepared by the CM Team for use in reviewing and recommending approval by the CMA Project Manager and the Agency Engineer. CCOs cannot change or expand the Project Scope of Work without approval in accordance with the CMA change order policy.

On a quarterly basis, the CMA PM with the assistance of the CPM and CM Team, will provide a Quarterly Construction Progress Report to the A&L Committee regarding the following: 1) status of the construction contract 2) each CCO approved since the last report with a cost of \$50,000 or greater or a time extension greater than 20 working days or 10% of the original contract time, whichever is greater; number of working days by reason of weather do not apply; 3) the overall status of CCOs; and 4) the status of the project budget. See Appendix A for a sample form.

CCOs will be identified using an alpha-numeric system. If a CCO is used to adjust the scope and/or quantities of base quantities before award will be given an alpha designation, i.e. CCO A. After the contract has been issued and construction has begun, CCOs should be named using a numeric designation, i.e. CCO 1. Each CCO will be accompanied by a CCO Memo with contains a more complete discussion of the issue and its ramifications. A sample of the CCO and CCO memo are shown in Appendix A.

Contract Change Orders (CCOs) will be approved by the Agency Engineer as shown in the Contract Change Order Policy

Dependent upon the funding sources used, there may be approval and reporting requirements for approval of CCOs by the various participating funding sources.

5.7 Resolution of Disputes

If a dispute arises on a claim, the process for resolution of the claim dispute will be in accordance with the contract language or the special provisions. The CMA wishes to endeavor fairly and expeditiously with claims and disputes. The CMA has the option of considering one or more claims resolution processes for inclusion in the contract documents:

- Caltrans claims resolution process
- Mediation
- Arbitration
- Dispute Review Board (if specified in the contract)

Many of the above processes are explained in detail in the Caltrans Construction Manual, section 5-4.

5.8 Authorized Budget Amount Increases

The CM Team will be responsible for maintaining records of the actual or expected costs of all approved, pending and potential CCOs and all potential claims and trend information to forecast potential overruns in budget or schedule. On a monthly basis, the CM Team will report to the CMA Project Manager the expected combined cost of these items and the base contract. The Construction PM with the CMA Project Manager will report quarterly this information to the A&L Committee.

Should the Construction PM advise the CMA Project Manager that the contingency allocated to the contract is nearing exhaustion (or within 25% of the total contingency value), at the next regularly scheduled CMA Board meeting, the CMA Contract Administrator in cooperation with the CMA Project Manager will seek an amendment to the overall project budget to account for an increase the contingency. The Construction PM will provide a Draft Staff Report for the CMA Project Manager for review, and upon satisfaction of the CMA Project Manager approval by the Agency Engineer, to seek an amendment to the contract contingency. A sample Draft Staff Report is shown in Appendix A.

6 Project Close-Out

The CM Team shall adhere to the applicable Caltrans' rules and regulations listed in Chapter 17 "Project Completion" of the Caltrans LAPM including the following:

6.1 Safety Review

Near the completion of the project, a review of the constructed project will be held with the focus on safety issues associated with newly constructed facility. The review will be held with the RE and potentially other members of the CM Team, the Design Consultant as well as representatives from the facilities owners (potentially Caltrans – design, safety, maintenance and others, BART, local jurisdictions, Alameda County Flood Control and Water Conservation Disstric0 – Zone 7, etc.). Items of potential safety concern will be documented and assigned to various meeting attendees to develop remedies for consideration. Upon agreeing upon a remedy(s), the RE will have the remedy(s) implemented by the contractor.

6.2 Substantial Completion and Final Inspection

When the contract work nears substantial completion, the RE will schedule a final inspection of the project. Inspection participants will include the CMA Project Manager, CM Team, the Design Consultant and the Contractor. Caltrans and other affected jurisdictions will also be included if the project is under their jurisdiction. The RE will develop a punch list and transmit it to the Contractor, with copies to all participants and interested stakeholders.

6.3 Project Acceptance and Final Payment

Once the Contractor has satisfactorily completed all punch list items and has completed all project closeout requirements in accordance with the contract, the RE will notify the CMA Project Manager. If the project is under the jurisdiction of Caltrans or another agency, the RE in coordination with the Agency Engineer and CMA Project Manager, will confirm that the contract work has been completed to the satisfaction of Caltrans and any affected agencies, and request a relief of maintenance and closeout with the permitting agency(s) No further actions will proceed towards project closeout until the project is formally accepted in writing by all the permitting agencies. The RE, in conjunction with the Contractor, will then prepare and forward the final pay request to the Construction PM for processing and final payment. The final

payment should also include the appropriate SBE, LBE, DBE and and/or other funding agencies' reporting forms.). Prior to recommending final payment to the prime contractor, the CMA Project Manager will consult with the Agency Engineer and/or legal counsel to ensure all financial instruments and/or encumbrances are fully resolved.

The CMA Contract Administrator will review the contract to ensure that all contractual obligations have been met.

Upon completion of all reviews, the Construction PM will prepare for the CMA Project Manager's review and Agency Engineer's approval, a Staff Board Report, resolution and other documents required for the CMA to accept the project construction contract and make final payment.

6.4 Release of Retention

Following adoption by the Board of the Resolution Authorizing Project Acceptance, the CMA Contract Administrator may record a Notice of Completion (NOC) with the County Recorder with ten (10) days of the acceptance of the work by the Board. A sample NOC is shown in Appendix A.

At the expiration of the statutory period, following publication of the NOC, if no Stop Notices have been filed against the project, the Agency Engineer will authorize the release of the Contractor's retention, in accordance with the specifications. The contractor can request release of retention in a phased fashion for the Agency Engineer's consideration. If any liens have been filed, the Agency Engineer, will authorize the release of the Contractor's retention less the amount of all liens and will refer the matter to the CMA's Legal Counsel for resolution.

6.5 Project Completion Report

At the conclusion of the project, the CM Team will prepare and submit a Project Completion Report, in accordance with the LAPM. A sample report is included in Appendix A.

The CM Team will also prepare a close-out submittal binder with all project related warranties, guarantees, installation manuals, operating manuals and keys and provide the binder to the appropriate jurisdiction stakeholders and/or facility maintenance staff. A sample table of contents for the Project Completion Report is shown in Appendix A.

Construction Appendix A - Sample Forms

Below is a list of sample forms to be utilized by CMA staff in construction contract administration:

- Draft Staff Report for Advertisement
- Notice to Contractors (NTC)
- Notice to Contractors, Bid Notice (NTC – BN)
- Pre-Bid Meeting Agenda -
- Bid Addendum
- Bid Summary
- Notice of Intent to Award
- Draft Staff Report for Award –
- Notice of Award
- Notice to Proceed (NTP) -
- Notice of Preconstruction Conference
- Agenda for Preconstruction Conference
- Quarterly Construction Progress Reports
- Construction Progress Payment Request
- Construction Change Order Form
- Construction Change Order Memo
- Draft Staff Report for Amendment to Construction Contract
- Form for Notification of Extraordinary Circumstances (incident report)
- Notice of Completion (NOC)
- Index of Project Completion Report
- *Additional forms under development*

Project Delivery Policies, Programs and Board Resolutions

Contract Change Order Policy

1. Application

The Contract Change Order (CCO) Policy will apply to all construction contracts (and related procurements) administered by the CMA.

2. Policy

The Agency Engineer has the authority to approve CCOs that are within the Board approved project budget (allocation).

As necessary, any required increase in project budget amount, or major scope change, will be brought to the CMA Board for approval. As part of that request, the Agency Engineer will provide the Board with a listing, prepared by the CMA's Project Manager, of the approved contract amount including all approved CCOs, submitted and anticipated CCOs, other anticipated project costs and any changes in funding sources that may impact the project budget.

Staff will report on a quarterly basis to the Board regarding the status of all construction projects administered by the CMA and will provide a list of CCOs greater in value than \$50,000 for each project.

Notwithstanding the above, the Agency Engineer shall comply with the reporting and approval requirements associated with participating funding sources.

Bid Protest Policy

1 Application

The Bid Protest Policy ("Policy") shall apply to Bid Protests, as such term is defined herein, relating to all contracts for construction of public works projects and associated procurements that are to be awarded by the Alameda County Congestion Management Agency by competitive sealed bid.

2 Definitions

For the purpose of this procedure, the following definitions apply:

- a) "CMA" means the Alameda County Congestion Management Agency which is located at 1333 Broadway, Suite 220, Oakland CA 94612.
- b) "Bid Protest" means a protest filed by a Bidder on a contract in accordance with the provisions of this Policy, which protest (i) claims that one or more Bidders on the contract should be disqualified or rejected for any reason; (ii) contests a CMA staff recommendation to award the contract to a particular Bidder; or (iii) contests a CMA staff recommendation to disqualify or reject the Protesting Bidder. Only a Bidder on a Contract or such Bidder's authorized representative may file a Bid Protest.
- c) "Bidder" means any person or firm that submits a bid on a Contract.
- d) "Contract" means any applicable contract as described in Section 1 of this Policy.
- e) "Protested Bidder" means a Bidder on a Contract which the Bid Protest claims should be disqualified or rejected.
- f) "Protesting Bidder" means a Bidder on a Contract, or such Bidder's authorized representative, who files a Bid Protest on the Contract in accordance with the provisions of this policy.
- g) "Working day" means a regular working day, excluding Saturdays, Sundays and holidays observed by CMA.

3 Notice Procedures

All notices and other communications required or desired to be given under this Policy shall be in writing and shall be deemed duly given: (a) when delivered, if personally delivered to the recipient; (b) on the first working day following delivery to an overnight delivery service (e.g., FedEx), provided delivery is confirmed by the delivery service; and (c) on the earlier of actual receipt or two (2) working days following deposit in United States registered or certified mail, postage prepaid and return receipt requested, addressed to the parties as set forth below.

Additionally, in the case of notices sent by CMA, notices shall also be deemed duly given when transmitted by facsimile during normal business hours, provided such facsimile device is capable of generating a written confirmation of such transmission and receipt and an original is deposited in first class mail, postage prepaid, within one (1) working day thereafter addressed as set forth below.

Notices addressed to CMA under this Policy must be addressed and delivered to the CMA as provided below:

BID PROTEST – PROJECT NUMBER

c/o CMA Contract Administrator
Alameda County Congestion Management Agency
1333 Broadway, Suite 220
Oakland, CA 94612

Notices sent to any bidder under this Policy shall be sent to the notice or business address and facsimile number set forth in such bidder's bid package. Any bidder may change its address for notices by giving written notice to CMA in the manner set forth above.

4 Form of Bid Protest

Any Bid Protest shall be in writing and shall provide the name, address, telephone number, and facsimile number of the Protesting Bidder and shall identify the Contract to which the Bid Protest pertains, including the Contract number and the date that bids for such Contract were received by the CMA. The Bid Protest shall identify and explain the factual and legal basis for the protest, and shall include by attachment to the Bid Protest, any written material that the Protesting Bidder wishes to have considered in connection with the protest. Any Bid Protest that fails to meet these requirements shall not be considered.

5 Submission of Bid Protest to the CMA

Any Bid Protest must be received by the CMA no later than 4:00 PM on the fifth (5th) working day following receipt by the Protesting Bidder of written notice from the CMA of staff's preliminary recommendation for award of the Contract. Bid Protests received by the CMA after the deadline or which do not otherwise comply with the requirements of this procedure shall not be considered. Bid Protests shall be submitted to the contact and address specified in Section 3, Notice Procedures (except as may otherwise be stated in the Notice of Intent to Award the Bid).

6 Investigation by Staff

If a Bid Protest is properly filed, CMA staff will promptly provide a copy thereof to the Protested Bidder. The Agency Engineer, the CMA Project Manager, the CMA Contract Administrator and the Construction Project Manager will thereafter review the facts and circumstances of the protest. Upon request from staff, each Bidder shall promptly provide additional information necessary for staff to conduct its review of the Bid Protest. Staff may, but shall not be obligated to, hold a meeting or meetings in order to obtain additional information and to seek to resolve the matter. In such event, staff shall give notice to the Protesting Bidder and the Protested Bidder, indicating the time and place of the meeting, which notice may be provided by facsimile. If the Protesting Bidder fails to attend any meeting following not less than three (3) working days notice, the Bid Protest will be deemed withdrawn and shall no longer be considered by CMA.

7 Response to Bid Protest

At the conclusion of its review, the CMA Contract Administrator, in coordination with the CMA Project Manager and Construction Project Manager, will provide the Protesting Bidder and the Protested Bidder written notice of the staff's recommendation with respect to the Bid Protest, which notice will include a statement of staff's recommendation and a brief explanation. The notice may be given by facsimile. No later than 4:00 P.M. on the third (3rd) working day following the date such notice is received, if either Bidder has an objection to the recommendation, such Bidder shall provide written notice to the CMA requesting a hearing on the Bid Protest. If no such notice is received, the recommendation of the staff shall be deemed accepted by the parties, and the recommendation shall be forwarded to the CMA Board for action.

If a request for hearing is received in accordance herewith, the matter shall be referred to a Bid Protest Panel consisting of three persons knowledgeable with respect to matters related to public contracts and bid protests, and at least one person shall not be CMA staff. The Agency Engineer shall select the panel members and act as or will designate another panel member as the Chair. The Agency Engineer will endeavor to pick panelists that do not have, or have not had, financial interest or employment with either the Protesting Bidder or Protested Bidder within the past 5 years. The Chair of the panel shall promptly convene the panel to hear the Bid Protest. Notice shall be given to the Protesting Bidder and the Protested Bidder of the time and place of the hearing.

The Bid Protest and staff's recommendation regarding the Bid Protest shall be submitted to the Panel for consideration at the hearing. The Panel shall allow the parties and CMA staff an opportunity to present additional evidence and argument, limited to facts and legal issues directly related to the Bid Protest, at the hearing. Following the hearing, the Panel shall do one of the following:

- a) Accept the recommendation of staff as submitted,
- b) Amend the staff recommendation, or
- c) Recommend the rejection of all Bids.

The decision of the Panel is final with respect to the disposition of the Bid Protest. The Panel's recommendation will be forwarded to the CMA Board. Thereafter, the CMA Board's role is limited to either awarding the contract as recommended by the Panel or rejecting all Bids.

Quality Assurance Program

1.0 Purpose

This Quality Assurance Program (QAP) is a sampling, testing and inspection program that will provide assurance that the materials and workmanship incorporated into the Alameda County Congestion Management Agency's (CMA) street and highway construction projects are in conformance with the contract specifications.

Chapter 16 – Administer Construction Contracts of the Caltrans Local Assistance Procedures Manual (LAPM), states “For federal-aid projects off the National Highway System, local agencies may adopt their own Quality Assurance Program used for projects not utilizing federal-aid funds, or adopt the Caltrans QAP described in this section. Caltrans will not process a Request for Authorization for Construction without verification of an adopted QAP.” This QAP has been adopted by the Board CMA as required by Caltrans and is modeled after the Caltrans QAP. Changes to this QAP required by state and federal regulations shall be deemed incorporated herein.

This QAP will act as a guide for the CMA Project Manager and the CMA's Consultant Construction Management Team (CM Team) to prepare a project specific Quality Assurance Plan for each construction contract administered by the CMA.

This QAP does not supersede any provisions in the technical specifications.

Reference materials that may be helpful in preparing the project specific QAP may include:

- Caltrans' Quality Assurance Program Manual, dated July 1996;
- Caltrans' Source Inspection Manual, dated 1999;
- Caltrans Division of Construction's Oversight Field Guide; and
- Caltrans' Construction Manual, Chapter 6 – Sampling and Testing

The main elements of the QAP are procedures for:

- Inspection of workmanship and materials
- Acceptance Testing (AT)
- Independent Assurance Sampling and Testing (IAST)
- Testing of Manufactured Materials

2.0 Applicability

This QAP applies to CMA administered, federally funded (Federal-aid) local agency projects off the National Highway System (NHS).

- 2.1 On-NHS system projects are governed by Caltrans/FHWA-approved QAP, found in Section 16.14 of the LAPM, Chapter 16 – Administer Construction Contracts, Section 14 – Quality Assurance Program ("LAPM-16.14").

- 2.2 Off-NHS, federally funded projects are governed by the procedures in this Alameda County Congestion Management Agency QAP. Its use is mandatory for Federal-aid projects and is recommended for other CMA street and highway projects. This local QAP is based upon the requirements for local QAPs contained in the aforementioned Section 16.14. Federally funded projects that mix on-and-off-NHS sites should utilize the Caltrans QAP.

3.0 Approval

The Agency Engineer of the CMA, who is a registered Professional Civil Engineer in the State of California, has approved this QAP. It shall be kept on file and available for Caltrans review.

4.0 Testing Required

This local QAP describes procedures for three types of required testing, described as follows:

- a. Acceptance Testing – procedures for regular testing of materials entering a construction project to verify that the materials, or products, comply with contract specifications or standards.
- b. Independent Assurance Sampling and Testing – procedures to verify that acceptance testing is being performed correctly by:
 - 1) Verifying that equipment used for acceptance is properly calibrated and in good working condition.
 - 2) Witnessing sampling and testing by the Acceptance Tester.
 - 3) Splitting material samples and comparing the test results between the Acceptance Tester and Independent Assurance Sampler and Tester.
- c. Testing of Manufactured Materials – procedures for inspecting, accepting and testing of manufactured and prefabricated materials either by source inspection, job site inspection, or certificate of compliance.

5.0 General Procedures and Requirements

Conduct of the sampling and testing shall follow these general procedures:

5.1 Construction Documents. Because CMA does not provide its own testing and inspection of materials, provision of such services must be arranged prior to advertising a project and addressed appropriately in the construction documents

5.2 Sampling and Testing Options. CMA may select from the following sources to perform sampling and testing:

- Another agency's laboratory

- Caltrans' laboratory
- Private consultant laboratory

Non-Caltrans laboratories shall have a QAP that meets LAPM-16.14 requirements.

- 5.3 **Engineering Charge.** All laboratories shall be under the responsible engineering management of a California registered professional engineer who shall certify results of tests performed under his supervision.
- 5.4 **Contractor Influence.** The contractor shall not select or exercise any authority over the laboratory utilized.
- 5.5 **Certification of Laboratory Personnel.** The certification requirements of LAPM-16.14 shall apply. Generally:

- Current certification is required for the following sampling and testing personnel: construction management/inspection, local agency, consultant laboratory and their sub-consultants.
- For on-NHS projects, certification shall be a "Certificate of Proficiency for an Acceptance Tester" (MR-0111), issued to an individual by the Caltrans District Materials Engineer or his designee, based either on Caltrans training, or on submittal of evidence of non-Caltrans training, experience or certification such as the "National Institute for Certification in Engineering Technologies" (NICET).

For off-NHS projects, certification of personnel for AT and IAST shall be either Caltrans (MR-0111 or MR-0100), NICET, or similar certificate acceptable to the Agency Engineer.

- Certificates for personnel on a project shall be retained in the Resident Engineer's (RE) project files.
 - Sampling and testing by an uncertified person is acceptable only in extreme, unforeseen emergencies, upon assurance by the Resident Engineer that the uncertified person is competent to perform the work.
- 5.6 **Laboratory Equipment Calibration.** CMA shall obtain documentation of consultant laboratory's calibration of its equipment in accordance with LAPM-16.14 and nationally recognized calibration standards. The laboratory is responsible for performing the calibrations and providing such records to CMA. Calibration records shall be provided to the Caltrans District Materials Engineer upon request.

Calibration of laboratory equipment and field test equipment (e.g. sand cones, scales, moisture test, slump cones, air meters) shall occur prior to use on a construction project and on regular, appropriate intervals not exceeding one year.

- 5.7 **Cost Recovery.** Materials testing and sampling costs are eligible to be charged to the construction engineering phase of the project.
- 5.8 **Compliance.** Failure to comply with the local agency QAP may result in loss of Federal funds.
- 5.9 **Records.** CMA's QAP and CM Team's QAP material records of samples and tests, material releases, and certificates of compliance for a project shall be incorporated into the RE's project file. For Federally funded projects, records shall be retained for a period of three years.
- 5.10 **Project Certification.** Upon project completion, the RE shall complete and sign a "Materials Certificate" (Caltrans LAPM Exhibit 17-G). The Certificate shall be submitted to the Caltrans Local Assistance Engineer (for Federally funded projects) and retained in the project construction files. All non-conforming materials must be explained and justified on the Certificate.

6.0 Acceptance Sampling and Testing

- 6.1 **Definition.** Acceptance Testing ("AT") is defined as regular testing of materials entering a construction project to verify compliance with contract specifications or standards.
- 6.2 **Timing.** Sampling should begin as soon as materials are placed on a project. Testing should be performed promptly to enable data evaluation and necessary measures to be taken by the RE and contractor.
- 6.3 **Test Methods.** Both California and American Society of Testing and Materials (ASTM) test methods are acceptable.
- 6.4 **Frequency.** Sampling and testing shall occur in accordance with Caltrans "Frequency Tables" (LAPM Exhibit 16-R), except as modified in writing by the Agency Engineer for a specific project. The tables are intended as a guide; the actual quality of materials tested may justify decreasing or increasing the frequency of subsequent similar samples and tests.
- 6.5 **Tests to be Performed.** The tests to be performed shall be in accordance with Caltrans "Frequency Tables" (LAPM Exhibit 16-R), and the Caltrans Standard Specifications as modified by the project Special Provisions, except as modified in writing by the Agency Engineer.
- 6.6 **Test Result Reporting Guidelines.** Results should be submitted to the RE within three (3) working days of sampling, or as directed by the construction schedule. Results may be expedited by using fax, telephone, or e-mail.
- 6.7 **Summary Logs.** "Material Testing Summary Logs" shall be maintained by the RE for each material requiring multiple sampling and testing. Log data shall include station location, test sample depth, approximate quantity of sample material, test result, and tester.

6.8 **Minor Quantities.** Relatively minor quantities of materials from a known, reliable source may be accepted without testing if:

- a. The Resident Engineer (RE) and/or the CM Team performs visual examination of materials, or
- b. The manufacturer or supplier certifies that the materials furnished comply with specification requirements.

Such records of acceptance shall be placed in the RE's project files with related inspection notes.

Examples of maximum "minor quantities" include (from LAPM-16.14):

- Aggregates used for other than Portland Cement concrete: 100 tons per day or 500 tons per project.
- Bituminous mixtures: 50 tons per day or 500 tons per project.
- Paint: 20 gallons per project.
- Non-reinforced or clay pipe: 100 lineal feet.

6.9 **Re-testing.** Failing test results require re-testing to isolate the failed area. The Log Summary shall cross-reference the retest to the initial failed test.

7.0 **Independent Assurance Sampling and Testing (IAST)**

7.1 **Definition.** The purpose of these procedures is to verify that Acceptance Testing is being performed correctly and reliably, and to ensure that equipment is properly calibrated and in good working condition.

7.2 **Applicability.** IAST procedures are required for Federally funded projects on and off the NHS system. For on-NHS projects, LAPM-16.14 procedures apply. For off-NHS projects, CMA Project Manager and/or CMA Contract Administrator will verify that its consultant laboratory's QAP includes IAST procedures for "testing its own testers". IAST procedures are optional, and may be required at the discretion of the Agency Engineer for non-Federally funded projects.

7.3 **IAST Testers.** Only persons holding an Independent Assurance Sampler Tester (IAST) Certificate (Caltrans Form MR-0100) may perform IAST. These may include individually certified laboratory personnel or testers. Testers shall be free of conflict of interest if also performing other testing work.

7.4 **Frequency of IAST.** The IAST frequency shall be as specified in the laboratory's QAP for each project where IAST is required.

8.0 **Testing of Manufactured and Assembled Materials.**

- 8.1 **Definition.** This procedure provides methods for inspecting, accepting, and testing materials that are manufactured or prefabricated off the project site.
- 8.2 **Certificate of Compliance.** The CMA may accept manufactured products, materials, or assemblies if accomplished by a Certificate of Compliance, provided they do not involve structural integrity or public safety. Such Certificate shall be signed by the manufacturer and shall state that materials and workmanship conform to the specific project specifications.
- 8.3 **Source Inspection.** As an alternative to a Certificate of Compliance, CMA or its CM Team, may request Caltrans to do a Source Inspection in accordance with LAPM-16.14 procedures.
- 8.4 **Applicable Materials.** Contract documents shall specify which materials require a certificate of Compliance (or optional Source Inspection). Typical materials are listed in LAPM Exhibit 16-T.
- 8.5 **Responsibility.** The RE and/or CM Team shall ensure that Certificates are furnished with material deliveries and are kept in the RE's project files.
- 8.6 **Documentation.** The certified material's lot number and project number shall be identified on the certificate and on lot tags or stenciled on the material. In addition, this data shall be referenced on the inspector's daily logs and laboratory reports.
- 8.7 **Re-testing.** Certified materials may be sampled and tested again on the job site, and rejected for cause whether in place or not.

Local Agency Approval

Frank Furger, P.E. 042124
Agency Engineer
Alameda County Congestion Management Agency